

REMARKS

The Office Action rejected claims 1-45 under 35 U.S.C. § 103 as obvious over JP 07196440 ("Uchizuka") in view of U.S. patent 6,306,407 ("Castro"). In an Advisory Action dated November 25, 2002 (responsive to Applicant's Request for Reconsideration filed November 13, 2002), this rejection was maintained. Both the Office Action and the Advisory Action relied upon the presence of chlorhexidine in claim 2 and the asserted disclosure in Uchizuka relating to "antiseptic" compounds to support the § 103 rejection, and the Office Action relied upon the presence of zinc salts in claim 2 and the disclosure of zinc oxide in Castro to support the § 103 rejection. In view of the following comments, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claim 1 has been amended to incorporate the active ingredients of claim 2. However, the phrase "chlorhexidine and its salts" has not been included in claim 1. Also, the phrase "zinc gluconate" appears in claim 1 instead of "zinc salt." Thus, claim 1 has been amended to exclude the specific compounds upon which the § 103 rejection was based. Because the basis for the § 103 rejection has been rendered moot by the amendment to claim 1 above, Applicant respectfully requests that the rejection be withdrawn.

Moreover, neither Uchizuka nor Castro disclose compositions containing the claimed active agents for treating greasy skin. Thus, their combination cannot yield the presently claimed invention, which requires the presence of the claimed active agents.

The Office Action admits that Uchizuka "lacks teachings on specific active agents." (Page 2). Castro does not compensate for Uchizuka's deficiencies. In support of the assertion that Castro discloses the claimed active agents, the Office Action suggests that Castro's disclosure of (1) antioxidants; and (2) oil-soluble actives constitutes disclosure of

active agents for treating greasy skin. However, neither of these groups of compounds discloses or suggests the claimed active agents.

Antioxidants are not active agents for treating greasy skin. Antioxidants in cosmetic and dermatological compositions react with free oxygen to prevent other compounds in the compositions from undergoing oxidation. Such compounds and mechanisms of action are not believed to be useful in treating greasy skin.

“Oil-soluble actives” is such a broad category that it effectively provides no guidance whatsoever for one skilled in the art to follow which would suggest adding the claimed active agents for treating greasy skin to Castro’s compositions, particularly in view of the fact that the two oil-soluble actives Castro identifies, vitamins A and E, are not active agents for treating greasy skin. Moreover, Castro’s limiting acceptable active agents to oil-soluble agents completely excludes water-soluble active agents. Because some active agents for treating greasy skin within the context of the claimed invention are oil-soluble and others are water-soluble, Castro’s exclusion of all such water-soluble compounds would lead one skilled in the art away from the claimed invention.

Thus, neither Uchizuka nor Castro discloses or suggests compositions containing the claimed active agents for treating greasy skin, so their combination cannot yield the presently claimed fiber-containing compositions which require the presence of such an active agent. For this reason alone the claimed invention is patentable, and the rejection under 35 U.S.C. § 103 should be withdrawn with respect to all claims requiring the presence of both fibers and an active agent for treating greasy skin (claims 1-20, 35, 36 and 43-45).

Moreover, neither Uchizuka nor Castro expressly discloses compositions having a light scattering effective amount of fibers as is required by claims 21-34 and 37-42. The

Office Action admits this. (Page 6). Accordingly, the rejection of these claims under 35 U.S.C. § 103 is improper and should be withdrawn.¹

Furthermore, for these same reasons, neither Uchizuka nor Castro discloses or suggests that compositions containing fibers and an active agent for treating greasy skin could be used to change the appearance of skin, let alone to fade out skin relief defects in skin such as microreliefs and pores. Thus, claims 23 and 43-45 are free of the cited art for this reason as well.

Finally, and again in view of their inadequate disclosures, neither Uchizuka nor Castro teaches, suggests or recognizes any benefits associated with compositions having the covering indexes specified in the claims. Due to this critical omission, one skilled in the art, seeking to create a fiber-containing composition, would not have been motivated by Uchizuka and/or Castro to make or use compositions having particular covering indexes. For this reason as well, claims 13, 33, 35-42, 44 and 45 are neither anticipated nor rendered obvious by the cited art.

In view of the above, Applicant respectfully submits that the rejection under 35 U.S.C. § 103 should be withdrawn with respect to all of the pending claims.

¹ Moreover, neither reference inherently discloses this feature. Uchizuka describes his fiber-containing compositions as having “superior resistance to water and oil.” [Cols. 1-2, par. 003]. Although Uchizuka is somewhat difficult to understand, Applicant respectfully submits that a fair reading of this reference is that Uchizuka’s compositions, when applied to skin, leave liquid (water/oil) on the skin (due to its superior water and oil resistance), making the skin appear shiny. Thus, Uchizuka does not suggest achieving a matte effect, nor can Uchizuka suggest achieving a light scattering effect with fibers.

Castro’s compositions contain substantially less fiber (from about 0.005 to about 1.0%, preferably 0.01 to 0.5% — see, col. 4, lines 6-10) than the preferred compositions of the present invention. (See, examples). Thus, there is no basis to conclude that Castro’s compositions, in which fibers wick and/or evaporate liquid away from skin, provide the same light-scattering effect as the compositions of the present invention, which are exemplified by compositions containing much more fiber than Castro’s compositions.

Applicant believes that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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1. (Twice Amended) A cosmetic, skincare or make-up composition comprising fibers and at least one active agent for treating greasy skin, wherein the at least one active agent is selected from the group consisting of β -lactam derivatives; quinolone derivatives; ciprofloxacin; norfloxacin; tetracycline and its salts; erythromycin and its salts; amikacin and its salts; 2,4,4'-trichloro-2'-hydroxydiphenyl ether; 3,4,4'-trichlorocarbanilide; phenoxypropanol; phenoxyisopropanol; doxycycline and its salts; capreomycin and its salts; chlortetracycline and its salts; oxytetracycline and its salts; clindamycin and its salts; ethambutol and its salts; hexamidine isethionate; metronidazole and its salts; pentamidine and its salts; gentamicin and its salts; kanamycin and its salts; lineomycin and its salts; methacycline and its salts; methenamine and its salts; minocycline and its salts; neomycin and its salts; netilmicin and its salts; paromomycin and its salts; streptomycin and its salts; tobramycin and its salts; miconazole and its salts; amantadine salts; para-chloro-meta-xyleneol; nystatin; tolnaftate; 3-hydroxybenzoic acid and its salts; 4-hydroxybenzoic acid and its salts; 2-hydroxybutanoic acid and its salts; 2-hydroxypentanoic acid and its salts; 2-hydroxyhexanoic acid and its salts; phytic acid and its salts; N-acetyl-L-cysteine acid and its salts; lipoic acid and its salts; azelaic acid and its salts; arachidonic acid and its salts; ibuprofen; naproxen; hydrocortisone; acetaminophen; resorcinol; octopirox; lidocaine hydrochloride; clotrimazole; 10-hydroxy-2-decanoic acid and its salts; zinc gluconate; plant extracts from the ericacea family; sulphur-rich plant extracts; and mixtures thereof.

Claim 2 (canceled)